

Union Calendar No. 321

107TH CONGRESS
2D SESSION

H. R. 4481

[Report No. 107-531]

To amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2002

Mr. YOUNG of Alaska (for himself, Mr. MICA, and Mr. DUNCAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JUNE 25, 2002

Additional sponsors: Mr. OBERSTAR, Mr. LIPINSKI, Mr. BAKER, Mrs. TAUSCHER, Mr. STUMP, Mr. FROST, Mr. ISAKSON, Mr. PASTOR, Mr. MEEKS of New York, Mr. LAMPSON, Mr. SANDLIN, Mr. HALL of Texas, Mr. DEFazio, Mr. GIBBONS, Mrs. JO ANN DAVIS of Virginia, and Mr. BENTSEN

JUNE 25, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 18, 2002]

A BILL

To amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Airport Streamlining*
5 *Approval Process Act of 2002”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

8 (1) *airports play a major role in interstate and*
9 *foreign commerce;*

10 (2) *congestion and delays at our Nation’s major*
11 *airports have a significant negative impact on our*
12 *Nation’s economy;*

13 (3) *airport capacity enhancement projects at*
14 *congested airports are a national priority and should*
15 *be constructed on an expedited basis;*

16 (4) *airport capacity enhancement projects must*
17 *include an environmental review process that pro-*
18 *vides local citizenry an opportunity for consideration*
19 *of and appropriate action to address environmental*
20 *concerns; and*

21 (5) *the Federal Aviation Administration, airport*
22 *authorities, communities, and other Federal, State,*
23 *and local government agencies must work together to*
24 *develop a plan, set and honor milestones and dead-*
25 *lines, and work to protect the environment while sus-*

1 *taining the economic vitality that will result from the*
 2 *continued growth of aviation.*

3 **SEC. 3. PROMOTION OF NEW RUNWAYS.**

4 *Section 40104 of title 49, United States Code, is*
 5 *amended by adding at the end the following:*

6 *“(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT*
 7 *CONGESTED AIRPORTS.—In carrying out subsection (a),*
 8 *the Administrator shall take action to encourage the con-*
 9 *struction of airport capacity enhancement projects at con-*
 10 *gested airports as those terms are defined in section*
 11 *47179.”.*

12 **SEC. 4. AIRPORT PROJECT STREAMLINING.**

13 *(a) IN GENERAL.—Chapter 471 of title 49, United*
 14 *States Code, is amended by inserting after section 47153*
 15 *the following:*

16 *“SUBCHAPTER III—AIRPORT PROJECT*
 17 *STREAMLINING*

18 **“§47171. DOT as lead agency**

19 *“(a) AIRPORT PROJECT REVIEW PROCESS.—The Sec-*
 20 *retary of Transportation shall develop and implement a co-*
 21 *ordinated review process for airport capacity enhancement*
 22 *projects at congested airports.*

23 *“(b) COORDINATED REVIEWS.—The coordinated re-*
 24 *view process under this section shall provide that all envi-*
 25 *ronmental reviews, analyses, opinions, permits, licenses,*

1 *and approvals that must be issued or made by a Federal*
 2 *agency or airport sponsor for an airport capacity enhance-*
 3 *ment project at a congested airport will be conducted con-*
 4 *currently, to the maximum extent practicable, and com-*
 5 *pleted within a time period established by the Secretary,*
 6 *in cooperation with the agencies identified under subsection*
 7 *(c) with respect to the project.*

8 “(c) *IDENTIFICATION OF JURISDICTIONAL AGEN-*
 9 *CIES.—With respect to each airport capacity enhancement*
 10 *project at a congested airport, the Secretary shall identify,*
 11 *as soon as practicable, all Federal and State agencies that*
 12 *may have jurisdiction over environmental-related matters*
 13 *that may be affected by the project or may be required by*
 14 *law to conduct an environmental-related review or analysis*
 15 *of the project or determine whether to issue an environ-*
 16 *mental-related permit, license, or approval for the project.*

17 “(d) *STATE AUTHORITY.—If a coordinated review*
 18 *process is being implemented under this section by the Sec-*
 19 *retary with respect to a project at an airport within the*
 20 *boundaries of a State, the State, consistent with State law,*
 21 *may choose to participate in such process and provide that*
 22 *all State agencies that have jurisdiction over environ-*
 23 *mental-related matters that may be affected by the project*
 24 *or may be required by law to conduct an environmental-*
 25 *related review or analysis of the project or determine wheth-*

1 *er to issue an environmental-related permit, license, or ap-*
 2 *proval for the project, be subject to the process.*

3 “(e) *MEMORANDUM OF UNDERSTANDING.—The coordi-*
 4 *nated review process developed under this section may be*
 5 *incorporated into a memorandum of understanding for a*
 6 *project between the Secretary and the heads of other Federal*
 7 *and State agencies identified under subsection (c) with re-*
 8 *spect to the project and the airport sponsor.*

9 “(f) *EFFECT OF FAILURE TO MEET DEADLINE.—*

10 “(1) *NOTIFICATION OF CONGRESS AND CEQ.—If*
 11 *the Secretary determines that a Federal agency, State*
 12 *agency, or airport sponsor that is participating in a*
 13 *coordinated review process under this section with re-*
 14 *spect to a project has not met a deadline established*
 15 *under subsection (b) for the project, the Secretary*
 16 *shall notify, within 30 days of the date of such deter-*
 17 *mination, the Committee on Transportation and In-*
 18 *frastructure of the House of Representatives, the Com-*
 19 *mittee on Commerce, Science, and Transportation of*
 20 *the Senate, the Council on Environmental Quality,*
 21 *and the agency or sponsor involved about the failure*
 22 *to meet the deadline.*

23 “(2) *AGENCY REPORT.—Not later than 30 days*
 24 *after date of receipt of a notice under paragraph (1),*
 25 *the agency or sponsor involved shall submit a report*

1 to the Secretary, the Committee on Transportation
2 and Infrastructure of the House of Representatives,
3 the Committee on Commerce, Science, and Transpor-
4 tation of the Senate, and the Council on Environ-
5 mental Quality explaining why the agency or sponsor
6 did not meet the deadline and what actions it intends
7 to take to complete or issue the required review, anal-
8 ysis, opinion, license, or approval.

9 “(g) *PURPOSE AND NEED.*—For any environmental
10 review, analysis, opinion, permit, license, or approval that
11 must be issued or made by a Federal or State agency that
12 is participating in a coordinated review process under this
13 section with respect to an airport capacity enhancement
14 project at a congested airport and that requires an analysis
15 of purpose and need for the project, the agency, notwith-
16 standing any other provision of law, shall be bound by the
17 project purpose and need as defined by the Secretary.

18 “(h) *ALTERNATIVES ANALYSIS.*—The Secretary shall
19 determine the reasonable alternatives to an airport capacity
20 enhancement project at a congested airport. Any other Fed-
21 eral or State agency that is participating in a coordinated
22 review process under this section with respect to the project
23 shall consider only those alternatives to the project that the
24 Secretary has determined are reasonable.

1 “(i) *SOLICITATION AND CONSIDERATION OF COM-*
2 *MENTS.—In applying subsections (g) and (h), the Secretary*
3 *shall solicit and consider comments from interested persons*
4 *and governmental entities.*

5 **“§47172. *Categorical exclusions***

6 *“Not later than 120 days after the date of enactment*
7 *of this section, the Secretary of Transportation shall develop*
8 *and publish a list of categorical exclusions from the require-*
9 *ment that an environmental assessment or an environ-*
10 *mental impact statement be prepared under the National*
11 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
12 *for projects at airports.*

13 **“§47173. *Access restrictions to ease construction***

14 *“At the request of an airport sponsor for a congested*
15 *airport, the Secretary of Transportation may approve a re-*
16 *striction on use of a runway to be constructed at the airport*
17 *to minimize potentially significant adverse noise impacts*
18 *from the runway only if the Secretary determines that im-*
19 *position of the restriction—*

20 *“(1) is necessary to mitigate significant noise*
21 *impacts and expedite construction of the runway;*

22 *“(2) is the most appropriate and a cost-effective*
23 *measure to mitigate the environmental impact of the*
24 *runway, taking into consideration any environmental*
25 *tradeoffs associated with the restriction; and*

1 “(3) *would not adversely affect service to small*
2 *communities, adversely affect safety or efficiency of*
3 *the national airspace system, unjustly discriminate*
4 *against any class of user of the airport, or impose an*
5 *undue burden on interstate or foreign commerce.*

6 **“§ 47174. Airport revenue to pay for mitigation**

7 “(a) *IN GENERAL.*—Notwithstanding section 47107(b),
8 *section 47133, or any other provision of this title, the Sec-*
9 *retary of Transportation may allow an airport sponsor car-*
10 *rying out an airport capacity enhancement project at a*
11 *congested airport to make payments, out of revenues gen-*
12 *erated at the airport (including local taxes on aviation*
13 *fuel), for measures to mitigate the environmental impacts*
14 *of the project if the Secretary finds that—*

15 “(1) *the mitigation measures are included as*
16 *part of, or are consistent with, the preferred alter-*
17 *native for the project in the documentation prepared*
18 *pursuant to the National Environmental Policy Act*
19 *of 1969 (42 U.S.C. 4321 et seq.);*

20 “(2) *the use of such revenues will provide a sig-*
21 *nificant incentive for, or remove an impediment to,*
22 *approval of the project by a State or local govern-*
23 *ment; and*

1 “(3) *the cost of the mitigation measures is rea-*
2 *sonable in relation to the mitigation that will be*
3 *achieved.*

4 “(b) *MITIGATION OF AIRCRAFT NOISE.—Mitigation*
5 *measures described in subsection (a) may include the insu-*
6 *lation of residential buildings and buildings used primarily*
7 *for educational or medical purposes to mitigate the effects*
8 *of aircraft noise and the improvement of such buildings as*
9 *required for the insulation of the buildings under local*
10 *building codes.*

11 **“§ 47175. Airport funding of FAA staff**

12 “(a) *ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—*
13 *Notwithstanding any other provision of law, the Adminis-*
14 *trator of the Federal Aviation Administration may accept*
15 *funds from an airport sponsor, including funds provided*
16 *to the sponsor under section 47114(c), to hire additional*
17 *staff or obtain the services of consultants in order to facili-*
18 *tate the timely processing, review, and completion of envi-*
19 *ronmental activities associated with an airport development*
20 *project.*

21 “(b) *ADMINISTRATIVE PROVISION.—Instead of pay-*
22 *ment from an airport sponsor from funds apportioned to*
23 *the sponsor under section 47114, the Administrator, with*
24 *agreement of the sponsor, may transfer funds that would*
25 *otherwise be apportioned to the sponsor under section 47114*

1 *to the account used by the Administrator for activities de-*
 2 *scribed in subsection (a).*

3 “(c) *RECEIPTS CREDITED AS OFFSETTING COLLEC-*
 4 *TIONS.—Notwithstanding section 3302 of title 31, any*
 5 *funds accepted under this section, except funds transferred*
 6 *pursuant to subsection (b)—*

7 “(1) *shall be credited as offsetting collections to*
 8 *the account that finances the activities and services*
 9 *for which the funds are accepted;*

10 “(2) *shall be available for expenditure only to*
 11 *pay the costs of activities and services for which the*
 12 *funds are accepted; and*

13 “(3) *shall remain available until expended.*

14 “(d) *MAINTENANCE OF EFFORT.—No funds may be ac-*
 15 *cepted pursuant to subsection (a), or transferred pursuant*
 16 *to subsection (b), in any fiscal year in which the Federal*
 17 *Aviation Administration does not allocate at least the*
 18 *amount it expended in fiscal year 2002, excluding amounts*
 19 *accepted pursuant to section 337 of the Department of*
 20 *Transportation and Related Agencies Appropriations Act,*
 21 *2002 (115 Stat. 862), for the activities described in sub-*
 22 *section (a).*

23 **“§47176. Authorization of appropriations**

24 “*In addition to the amounts authorized to be appro-*
 25 *priated under section 106(k), there is authorized to be ap-*

1 *propriated to the Secretary of Transportation, out of the*
2 *Airport and Airway Trust Fund established under section*
3 *9502 of the Internal Revenue Code of 1986 (26 U.S.C.*
4 *9502), \$2,100,000 for fiscal year 2003 and \$4,200,000 for*
5 *each fiscal year thereafter to facilitate the timely processing,*
6 *review, and completion of environmental activities associ-*
7 *ated with airport capacity enhancement projects at con-*
8 *gested airports.*

9 **“§47177. Judicial review**

10 “(a) *FILING AND VENUE.*—A person disclosing a sub-
11 *stantial interest in an order issued by the Secretary of*
12 *Transportation or the head of any other Federal agency*
13 *under this part or a person or agency relying on any deter-*
14 *mination made under this part may apply for review of*
15 *the order by filing a petition for review in the United States*
16 *Court of Appeals for the District of Columbia Circuit or*
17 *in the court of appeals of the United States for the circuit*
18 *in which the person resides or has its principal place of*
19 *business. The petition must be filed not later than 60 days*
20 *after the order is issued. The court may allow the petition*
21 *to be filed after the 60th day only if there are reasonable*
22 *grounds for not filing by the 60th day.*

23 “(b) *JUDICIAL PROCEDURES.*—When a petition is
24 *filed under subsection (a) of this section, the clerk of the*
25 *court immediately shall send a copy of the petition to the*

1 *Secretary or the head of any other Federal agency involved.*
2 *The Secretary or the head of such other agency shall file*
3 *with the court a record of any proceeding in which the order*
4 *was issued.*

5 “(c) *AUTHORITY OF COURT.*—When the petition is sent
6 to the Secretary or the head of any other Federal agency
7 involved, the court has exclusive jurisdiction to affirm,
8 amend, modify, or set aside any part of the order and may
9 order the Secretary or the head of such other agency to con-
10 duct further proceedings. After reasonable notice to the Sec-
11 retary or the head of such other agency, the court may grant
12 interim relief by staying the order or taking other appro-
13 priate action when good cause for its action exists. Findings
14 of fact by the Secretary or the head of such other agency
15 are conclusive if supported by substantial evidence.

16 “(d) *REQUIREMENT FOR PRIOR OBJECTION.*—In re-
17 viewing an order of the Secretary or the head of any other
18 Federal agency under this section, the court may consider
19 an objection to the action of the Secretary or the head of
20 such other agency only if the objection was made in the
21 proceeding conducted by the Secretary or the head of such
22 other agency if there was a reasonable ground for not mak-
23 ing the objection in the proceeding.

1 “(e) *SUPREME COURT REVIEW*.—A decision by a court
 2 under this section may be reviewed only by the Supreme
 3 Court under section 1254 of title 28.

4 “(f) *ORDER DEFINED*.—In this section, the term
 5 ‘order’ includes a record of decision or a finding of no sig-
 6 nificant impact.

7 **“§47178. Definitions**

8 *“In this subchapter, the following definitions apply:*

9 “(1) *AIRPORT SPONSOR*.—The term ‘airport
 10 sponsor’ has the meaning given the term ‘sponsor’
 11 under section 47102.

12 “(2) *CONGESTED AIRPORT*.—The term ‘congested
 13 airport’ means an airport that accounted for at least
 14 1 percent of all delayed aircraft operations in the
 15 United States in the most recent year for which such
 16 data is available and an airport listed in table 1 of
 17 the Federal Aviation Administration’s Airport Capac-
 18 ity Benchmark Report 2001.

19 “(3) *AIRPORT CAPACITY ENHANCEMENT*
 20 *PROJECT*.—The term ‘airport capacity enhancement
 21 project’ means—

22 “(A) a project for construction or extension
 23 of a runway, including any land acquisition,
 24 taxiway, or safety area associated with the run-
 25 way or runway extension; and

1 “(B) such other airport development
2 projects as the Secretary may designate as facili-
3 tating a reduction in air traffic congestion and
4 delays.”.

5 (b) *CONFORMING AMENDMENT.*—*The analysis for*
6 *chapter 471 of such title is amended by adding at the end*
7 *the following:*

“SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

“47171. DOT as lead agency.

“47172. Categorical exclusions.

“47173. Access restrictions to ease construction.

“47174. Airport revenue to pay for mitigation.

“47175. Airport funding of FAA staff.

“47176. Authorization of appropriations.

“47177. Judicial review.

“47178. Definitions.”.

8 **SEC. 5. GOVERNOR’S CERTIFICATE.**

9 Section 47106(c) of title 49, United States Code, is
10 amended—

11 (1) in paragraph (1)—

12 (A) by inserting “and” after the semicolon
13 at the end of subparagraph (A)(ii);

14 (B) by striking subparagraph (B); and

15 (C) by redesignating subparagraph (C) as
16 subparagraph (B);

17 (2) in paragraph (2)(A) by striking “stage 2”
18 and inserting “stage 3”;

19 (3) by striking paragraph (4); and

20 (4) by redesignating paragraph (5) as para-
21 graph (4).

1 **SEC. 6. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY**
2 **PROJECTS.**

3 *Section 47504(c)(2) of title 49, United States Code, is*
4 *amended—*

5 *(1) by striking “and” at the end of subpara-*
6 *graph (C);*

7 *(2) by striking the period at the end of subpara-*
8 *graph (D) and inserting “; and”; and*

9 *(3) by adding at the end the following:*

10 *“(E) to an airport operator of a congested*
11 *airport (as defined in section 47178) and a unit*
12 *of local government referred to in paragraph*
13 *(1)(A) or (1)(B) of this subsection to carry out*
14 *a project to mitigate noise in the area sur-*
15 *rounding the airport if the project is included as*
16 *a commitment in a record of decision of the Fed-*
17 *eral Aviation Administration for an airport ca-*
18 *capacity enhancement project (as defined in section*
19 *47178) even if that airport has not met the re-*
20 *quirements of part 150 of title 14, Code of Fed-*
21 *eral Regulations.”.*

22 **SEC. 7. LIMITATIONS.**

23 *Nothing in this Act, including any amendment made*
24 *by this Act, shall preempt or interfere with—*

25 *(1) any practice of seeking public comment; and*

1 (2) *any power, jurisdiction, or authority of a*
2 *State agency or an airport sponsor has with respect*
3 *to carrying out an airport capacity enhancement*
4 *project.*

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